

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

DAVID CHAISSON * CIVIL ACTION NO. 6:18-CV-835
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*
VERSUS * JUDGE _____
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*
PELLERIN & SONS, INC. * MAGISTRATE JUDGE _____

NOTICE OF REMOVAL

NOW COMES Pellerin & Sons, Inc. (“Defendant”), through undersigned counsel, who files this Notice of Removal of an action originally entitled “D. Chaisson v. Pellerin & Sons, Inc.,” Docket No. 2018-3576-G, 15th Judicial District Court, Parish of Lafayette, State of Louisiana, and who hereby removes said action to the United States District Court for the Western District of Louisiana, Lafayette Division. In this regard, Defendant respectfully submits as follows:

1.

Defendant was served with a Citation and Petition filed by Mr. David Chaisson (“Plaintiff”) through service on its registered agent for service of process on June 7, 2018. A copy of the Plaintiff’s Petition and Citation which accompanied it, as well as all process, pleadings and orders served on Defendant, are attached hereto as Exhibit “A.” The title of the referenced State Court Action is “D. Chaisson v. Pellerin & Sons, Inc.,” Docket No. 2018-3576-G, 15th Judicial District Court, Parish of Lafayette, State of Louisiana.

2.

In his Petition, Plaintiff has expressly asserted a claim for overtime compensation under the Fair Labor Standards Act (“FLSA”) (29 U.S.C. §201, et seq.). Plaintiff claims that he worked

overtime without being properly paid overtime compensation pursuant to the FLSA. Plaintiff also asserts recordkeeping issues pursuant to the Code of Federal Regulations. Additionally, Plaintiff expressly seeks monetary relief under 29 U.S.C. §216.

3.

Plaintiff's action is one in which this Honorable Court has original jurisdiction because it is an action "arising under the Constitution, laws or treaties of the United States" and it may be removed to this Honorable Court pursuant to 28 U.S.C. §1441, et seq. See also 28 U.S.C. §1331. In this regard, Plaintiff has expressly invoked federal law claims and is seeking relief under federal law such that federal question jurisdiction exists pursuant to 28 U.S.C. §1331, thus making this case removable pursuant to 28 U.S.C. §1441, et seq.

4.

With regard to Plaintiff's state law claims asserted under the Louisiana Wage Payment Statute, this Honorable Court has supplemental jurisdiction over said claims since they are so related to Plaintiff's federal claims "that they form part of the same case or controversy under Article III of the United States Constitution." See 28 U.S.C. §1367. In this regard, Plaintiff asserts that because Defendant did not properly pay overtime wages under the FLSA, he is entitled, in addition to relief under the FLSA, to relief under Louisiana's Wage Payment Statute and, in particular, additional penalty wages.

5.

This Notice of Removal is being timely filed with this Honorable Court pursuant to 28 U.S.C. § 1446(b) because it is being filed within thirty (30) days after receipt by the Defendant, through service or otherwise, of a copy of the initial pleadings setting forth the claims for relief upon which such action is based. Venue of this removal action is proper pursuant to 29 U.S.C. §

1441 inasmuch as the United States District Court for the Western District of Louisiana, Lafayette Division covers Lafayette Parish, Louisiana and the 15th Judicial District Court for the State of Louisiana, which is the venue where the original state court action was filed.

6.

Promptly upon filing of the Defendant's Notice of Removal, Defendant will provide written notice to counsel for Plaintiff of the removal of this case and will file a copy of this pleading with the 15th Judicial District Court, Lafayette Parish, Louisiana under Docket No. 2018-3576-G.

7.

No act of Congress prohibits the removal of this cause and this cause is removable under 28 U.S.C. § 1441 et seq.

8.

Pellerin & Sons, Inc. and all named defendants hereby request and consent to removal of this action as evidenced by the submission and filing of this notice of removal and related pleadings. There are no other named defendants in this lawsuit.

WHEREFORE, premises considered, Defendant, Pellerin & Sons, Inc. prays that the above-entitled case be removed to the United States District Court for the Western District of Louisiana, Lafayette Division and that this Honorable Court assume jurisdiction of this lawsuit and retain it for final disposition and for such other relief, both general and special, at law or in equity, to which Defendant may be justly entitled.

Respectfully submitted:

s/Joel P. Babineaux
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CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system and I hereby certify that I have forwarded the foregoing by e-mail and prepaid U.S. Mail delivery to the following: Tracy P. Curtis

s/Joel P. Babineaux
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